

**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

 Docket Number (Optional)
 020824-001110us

In re Application of: Mark Flowers

Application No.: 10/667,242

Filed: Sept. 18, 2003

For: Surface position location system and method

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FEB 03 2005

The owner*, LeapFrog Enterprises, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term prior patent No. RE38,286 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later expires for failure to pay a maintenance fee;

is held unenforceable;

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2. The undersigned is an attorney or agent of record. Reg. No. _____


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12/23/04
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Henry Ohab, Corporate Patent Counsel

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1-510-420-5000

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